

10. (NEW) The oval elliptical mirror assembly of Claim 7 wherein the minor axis has a minimum radius of curvature at the periphery of the lens.

REMARKS

Claims 1, and 7-10 remain pending in the present application.

The above-identified Office Action has been reviewed and carefully considered. In view thereof, the present amendment and response is submitted. It is contended that by the present amendment and response, all bases of rejection have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejections of record are respectfully requested.

STATEMENT OF THE REJECTIONS

Claims 1 and 7 stand rejected under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103 as obvious in view of Schmidt et alia ('372).

Claims 1 and 7 stand rejected under 35 U.S.C. §102(e) as anticipated by, or, in the alternative, under 35 U.S.C. §103 as obvious over Albers et alia.

The disclosure stands objected to because of several informalities of which appropriate correction has been requested by the Examiner.

PRIOR ART CITED IN SUPPORT OF REJECTIONS

The Examiner has cited U.S. Patent No. 4,436,372 to Schmidt et alia. Schmidt teaches an elliptical mirror with a convex surface having a continuous peripheral edge extending thereabout. The convex reflecting surface has an apex which extends a predetermined distance H from a plane defined by the peripheral edge. The convex reflecting surface, at the continuous peripheral edge, has an outer diameter D. The relationship of D/H is in the range of 2.5 to 3.0. The mirror is mounted to a disc member with a threaded ball member mounted to the disc member. The threaded ball member is attached to brackets which are mounted to the vehicle behind the front bumper.

The Examiner additionally relies on U.S. Patent No. 5,084,785 issued to Albers et alia. Albers teaches a safety mirror mountable adjacent to the perimeter of a vehicle to afford vehicle drivers the ability to observe from the driving position an area extending outwardly from at least one location inboard of the portion of the perimeter of the vehicle visible from the location of the mirror.

EXAMINER'S RATIONALE FOR REJECTIONS

In rejecting Claims 1 and 7 under 35 U.S.C. §102(b) as anticipated by, or in the alternative, under 35 U.S.C. §103 as obvious over Schmidt et alia, the examiner stated:

Schmidt et al discloses an elliptical mirror assembly comprising a mirror lens (22) being a substantially convex ellipsoid with a first major axis of 4.11 inches from the origin and a second minor axis of 3.72 inches from the origin and a reflective surface (29), means for supporting the mirror lens (66,70) and means for mounting the mirror lens to a mounting surface (60,84,88), Note fig. 5, wherein the examiner is of the opinion that the elliptical mirror of Schmidt et al would inherently be oval in shape due to the fact that the mirror is of a shape of an ellipse. However, if this is not the case, the examiner is of the opinion that, due to the specification's lack of showing of criticality or unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mirror shape of Schmidt et al to be oval in order to obtain a particular viewing zone of interest. Note In re Daily et al., 144 USPQ 47.

In rejecting Claims 1 and 7 under 35 U.S.C. §102(e) as anticipated by or, in the alternative, under 35 U.S.C. §103 as obvious over Albers et alia, the examiner stated:

To the extent the claims are definite, Albers et al discloses an elliptical mirror assembly comprising a convex mirror lens (14) having a first major axis continuously varying to a maximum value of 13.75 inches, a second minor axis continuously varying to a maximum value of 9.75 inches and a reflective surface (15 or 16), means for supporting the mirror lens (26,44) and means for mounting the mirror lens to a mounting surface (29,38,45), note figures 2-4, wherein the Examiner is considering the non-reflective surface to be the outer surface of element 23, shown in Fig. 3

However, if this is not that case, the Examiner states it is well known to coat a reflective material with a protective coating, such as paint, in the same fluid of endeavor for the purpose of inherently protecting the reflective material from oxidation and to obscure the object in the background by absorbing any light rays that might penetrate the reflective material. Note by example only, U.S. Patent 4,822,157 to Stout.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reflective surface (15) of Albers et

alia to include a protective coating, such as paint, as evidenced by Stout ('157) in order to protect the reflective material from oxidation as well as obscuring the object in the background by absorbing any light rays that might penetrate the reflective material.

The Examiner additionally objects to the disclosure, stating:

The specification reference to "a second major axis 34" would appear to be inconsistent with the terminology used in the mirror art to define and/or describe a minor axis of an ellipsoid.

REASONS WHY THE REJECTIONS ARE TRAVERSED

Currently, Claims 1 and 7 stand rejected under 35 U.S.C. § 102(b) as anticipated by, or, in the alternative, under 35 U.S.C. § 103 as obvious over Schmidt et alia. Applicants submit that both rejections are improper for the following reasons.

With respect to the rejection of Claims 1 and 7 under 35 U.S.C. § 102(b), the Examiner has improperly rejected the claims thereunder because each and every limitation of the claims are not taught in the Schmidt et alia reference. More specifically, Claims 1 and 7 each include the limitation of an oval mirror. The Schmidt reference specifically teaches only a circular mirror. Throughout Schmidt, reference is made to a mirror having a diameter D, and a circular base, which is indicative that Schmidt is directed only to teaching a circular mirror. A single prior art reference anticipates a claimed

invention only if it discloses each and every claim element.

Structural Rubber Prod. Co. v. Park Rubber Co., 749 F. 2d 707,223 USPQ 1264 (Fed. Cir. 1984).

The Examiner states in the rejection that the mirror in Schmidt et alia would inherently be oval. An anticipatory reference need not duplicate word for word what is in the claims. Anticipation can occur when a claim limitation is "inherent" or otherwise implicit in the relevant reference. Standard Havens Products, Inc. v. GenCor Industries, Inc., 953 F. 2d 1360, 21 USPQ 2d (Fed. Cir. 1991).

The mirror taught in Schmidt is an ellipsoid having a circular base, wherein the base has a diameter 'D'. There is no oval inherently present in this construct as any plane parallel to the base which cuts through the mirror would produce a circle, not an oval. The Examiner is incorrect in asserting that ellipsoids inherently are oval, as this just is not the case. Additionally, it must be appreciated that an ellipsoid is a three dimensional construct whereas an oval is two dimensional. The mirror in Schmidt is a circular based spherical mirror whereas the invention disclosed in the present application is an oval based elliptical mirror.

Because Schmidt et alia fails to teach an oval mirror as claimed in Claims 1 and 7, an anticipation rejection under 35 U.S.C. § 102(b) is improper. Absence of a claim element from a

prior art reference negates anticipation. Atlas Powder Co. v. E.I. du Pont de Nemours & Co., 750 F. 2d 1569, 224 USPQ 409 (Fed. Cir. 1984). Accordingly, Applicants respectfully request withdrawal of the § 102(b) rejection of Claims 1 and 7.

Claims 1 and 7 also stand rejected under 35 U.S.C. § 103 as obvious in view of Schmidt. Applicants contend that this rejection is improper. As pointed out hereinabove, the Schmidt et alia reference neither teaches nor suggests "an oval mirror". Additionally, Schmidt, et alia fails to teach or suggest a mirror having "a major axis and a minor axis," as claimed in Claims 1 and 7 of the present application. Essentially, the basic characteristics of the invention in Schmidt et alia and the invention of Claims 1 and 7 are vastly different. The invention of Claims 1 and 7 is an oval mirror having two axes, a major and minor axis, whereas Schmidt teaches a circular mirror having one major axis. Schmidt does not even remotely hint at such an invention.

The Examiner takes the position in his § 103 rejection that the ellipsoid mirror of Schmidt et alia would inherently be oval in shape. This is incorrect. The Schmidt et alia reference teaches and discloses only a circular based mirror, i.e., one having a diameter D, not an oval based mirror. The Examiner has mistakenly come to the conclusion that the ellipsoid mirror of Schmidt et alia is inherently oval shaped.

An ellipsoid, as defined in the Dictionary of Scientific and Technical Terms, fourth Edition, is "a surface whose intersection with every plane is an ellipse or circle.

(Emphasis added) Schmidt et alia teaches an ellipsoid mirror where all planes passing through the mirror, such that the planes are parallel to the base of the mirror generates a circle, not an oval, which is a specific limitation of Claims 1 and 7. Therefore, the Examiner has incorrectly asserted that an ellipsoid is inherently oval in shape as it may be alternatively circular. It is to be additionally appreciated that an ellipsoid is a three dimensional figure while circles and ovals are two dimensional, therefore it is incorrect to assert that an ellipsoid is inherently oval, as no three dimensional object can inherently be a two dimensional object.

It is to be additionally appreciated that it would not have been obvious to one of ordinary skill in the art, absent some suggestion or teaching, to modify the invention of Schmidt et alia to produce the invention of Claims 1 and 7. This would involve, essentially, producing a completely different mirror having two radii of curvature as opposed to one and having an oval base as opposed to a circular base.

The Examiner states in the Office Action that due to the specification's lack of showing of criticality or unexpected results, it would have been obvious to one of ordinary skill in

the art at the time the invention was made to modify the mirror of Schmidt et alia to be oval in shape in order to obtain a particular viewing zone of interest. The Examiner fails to appreciate, as is disclosed in the specification, that by being oval in shape, the mirror of the present invention may be positioned with the long axis vertically aligned with the ground. This provides for an extended field-of-view from top to bottom. Additionally, the oval shape of the mirror allows one to position the long axis horizontal with the ground, which provides an extended field-of-view from side to side.

A circularly shaped mirror such as that disclosed in the Schmidt et alia reference is not configurable as such, and the invention disclosed in the present application is not obvious in view thereof. For all the reasons set out herein above, the invention of Claims 1 and 7 are not obvious in view of Schmidt et alia and Applicants respectfully request withdrawal of the rejection.

The Examiner goes on to reject Claims 1 and 7 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Albers et alia. Applicants submit that both rejections of Claims 1 and 7 are improper for the following reasons.

With respect to the rejection of Claims 1 and 7 under 35 U.S.C. §102(e), the Examiner has improperly rejected the

claims thereunder because each and every limitation of the claims are not taught in the Albers et alia reference. It is important to remember that anticipation under § 102 can be found only if a reference shows exactly what is claimed. Titanium Metals Corp. v. Banner, 778 F 2d 775, 277 USPQ 773 (Fed. Cir. 1985).

Claims 1 and 7 include the limitation of an oval mirror lens. Albers et alia neither teaches nor suggests an oval mirror lens. The Examiner realized this in analyzing the Albers et alia reference and is of the opinion that the elliptical mirror of Albers et alia would inherently be oval in shape due to the fact that the mirror is of the shape of an ellipse. this is an incorrect assumption. Figures 1 and 7 clearly show the invention of Albers et alia embodied in a non-oval mirror. Essentially, the Albers reference teaches a mirror surface having two different radii of curvature, where the radii of curvature increase as one travels from the center of the mirror out towards the perimeter thereof. This is a totally different invention from that claimed in Claims 1 and 7.

Albers does not teach an oval mirror, and additionally, an oval mirror shape is not inherent in the Albers invention as shown by Figures 1 and 7. As such, because Albers fails to teach every limitation of Claims 1 and 7, it does not anticipate under the terms of 35 U.S.C. § 102(e). Withdrawal of the rejection is respectfully requested.

Additionally, Albers et alia teaches a mirror where the radii of curvature increase as one travels from the center of the mirror towards the periphery. This is in direct opposition to the mirror claimed in Claim 7 where the radii are shortest at the periphery of the mirror.

As to the rejection of Claims 1 and 7 under 35 U.S.C. § 103, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mirror shape of Albers et alia to be oval in order to obtain a particular viewing zone of interest. There is no suggestion or teaching in Albers et alia of an oval mirror. Even though the mirror in Albers et alia may be modified so as to produce an oval mirror, this is not a basis for an obviousness rejection, unless there is a suggestion in the prior art of the desirability of such modification. In re Gordon, 733 F 2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Because there is no teaching or suggestion in Albers which sets out the desirability of modifying the Albers mirror to be an oval mirror, a rejection of Claims 1 and 7 under 35 U.S.C. § 103 is improper. For the foregoing reasons, Applicants thereby request withdrawal of the rejection of record.

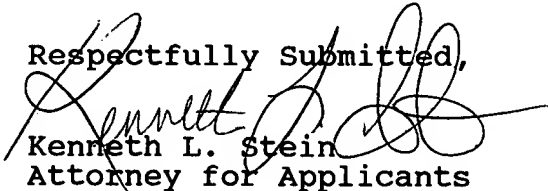
The Examiner objects to the disclosure for being inconsistent with the terminology used in the mirror art. Applicants would like to point out that they are entitled to be

their own lexicographers. Additionally, Applicants would like to point out that an ellipsoid may have two major axes, each of which share a common axis, as is the case with the present invention. The height of the mirror of the present invention serves as the minor axis of each of the two different major axes. Thus, Applicants contend that correction is not necessary, as one skilled in the art could product the device as claimed from the disclosure and drawings of the application as required under 35 U.S.C. § 112. However, Applicants have, in good faith, amended the specification as requested by the Examiner.

Applicants have also submitted several new claims herewith. These new claims add no new matter as they claim elements which are disclosed in the detailed description and drawings. Additionally, the new claims are neither anticipated nor obvious in view of the prior art cited by the Examiner because they include specific limitations neither taught nor suggested in any individual reference or combination thereof.

If the Examiner believes that a telephone conference would benefit the prosecution of the application, he is encouraged to contact this attorney at the number listed below.

Respectfully Submitted,


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Date: December 27, 1995